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Attorneys for Defendant Bank of America, N.A.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JEFFREY KUNTZ,

Plaintiff,

v.

BANK OF AMERICA, N.A.; and DOES 1-100, inclusive,

Defendants.

Case No.: 4:19-cv-02946-YGR

**QTFGT'I TCPVPI 'UVRWNCVGF
TGS WGVV'VQ'DISMISS COMPLAINT;
[PROPOSED] ORDER**

Complaint Filed: April 25, 2019
Removed: May 29, 2019

BRYAN CAVE LEIGHTON PAISNER LLP
THREE EMBARCADERO CENTER, 7TH FLOOR
SAN FRANCISCO, CA 94111-4070

1 Defendant Bank of America, N.A. ("BANA") and Plaintiff Jeffrey Kuntz
 2 ("Plaintiff") (collectively, "the Parties"), by and through their respective counsel of record
 3 hereby stipulate as follows:

4 1. Plaintiff, on behalf of himself and a putative class, filed a Complaint in the
 5 California Superior Court for the County of Alameda on April 25, 2019, alleging a
 6 violation of the Equal Credit Opportunity Act ("the Action");

7 2. On May 29, 2019, BANA removed the Action to this Court;

8 3. BANA filed an Answer on September 11, 2019;

9 4. No class has been certified in the Action or for the purposes of settlement,
 10 and no such certification has been sought;

11 5. Plaintiff has voluntarily agreed to dismiss his claims *with prejudice* under
 12 Federal Rule of Civil Procedure 41(a)(2);

13 6. The Parties also agree that the claims brought on behalf of the putative class
 14 should be dismissed *without prejudice* under Federal Rule of Civil Procedure 41(a)(2);

15 7. Each party shall bear its own costs and attorneys' fees;

16 8. The Parties further agree that notice should not be required to the putative
 17 class under Federal Rule of Civil Procedure 23(e) or *Diaz v. Tr. Territory of Pac. Islands*,
 18 876 F.2d 1401, 1408 (9th Cir. 1989);

19 9. Putative class members are not likely to know of the Action because it was
 20 not widely publicized and does not otherwise appear to be of significant public interest;

21 10. There was no settlement or concession of class interests made by the putative
 22 class representative (Plaintiff) or counsel in order to further his own interests, and no
 23 settlement agreement was entered into;

24 11. Accordingly, the Action should be dismissed.

1 **IT IS SO STIPULATED.**

2
3
4 Dated: November 4, 2019

BRYAN CAVE LEIGHTON PAISNER LLP

5
6 By: /s/ Alexandra C. Whitworth

Alexandra C. Whitworth

7 Attorneys for Defendant

8 BANK OF AMERICA, N.A.

9
10 Dated: November 4, 2019

GALLO LLP

11
12 By: /s/ Dominic Valerian

Dominic Valerian

13 Attorneys for Plaintiff

14 JEFFREY KUNTZ

15
16 I hereby attest, pursuant to Civil Local Rule 5-1(i)(3), that concurrence in the filing of this
17 document has been obtained from each of the other signatories.
18

19
20 By: /s/ Alexandra Whitworth

Alexandra C. Whitworth

~~PROPOSED~~ ORDER

Pursuant to the Parties' stipulation, and good cause appearing, the putative class action Complaint filed by Plaintiff Jeffrey Kuntz ("Plaintiff") against Defendant Bank of America, N.A. is hereby dismissed. With respect to the claims asserted by Plaintiff in his individual capacity, the Complaint is dismissed *with* prejudice. With respect to the claims asserted by Plaintiff on behalf of the putative class, the Complaint is dismissed *without* prejudice.

Dated: 'P qxgo dgt'8.'423;

By: _____


HON. YVONNE GONZALES ROGERS
United States District Court Judge